

REMARKS

Claims 1-18 are pending. Claims 13, 14, 16, and 17 have been cancelled, and claims 12, 15, and 18 have been amended. Therefore, claims 1-12, 15, and 18 are pending in the application. Applicants acknowledge that claims 1-11 and 15 have been allowed.

Claim 12 has been amended to recite that the microorganism is “an actinomycete strain CLCO-002 (CECT-3367).” Support for this amendment can be found throughout the specification, e.g., at page 5, lines 5-11 and claims 13 and 14 as originally filed. Claim 15 has been amended to correct a typographical error. Claim 18 has been amended to recite that the tumor is selected “from the group comprising leukemia, lung carcinoma, colon carcinoma, and melanoma.” Support for this amendment can be found throughout the specification, e.g., at page 12, lines 21-25. No new matter is introduced by these amendments.

Claim Objection under 37 C.F.R. § 1.75

Claim 16 is objected to as being a substantial duplicate of claim 1. This objection is moot in view of the cancellation of claim 16.

Rejection under 35 U.S.C. § 112, second paragraph

Claim 17 is rejected for being indefinite. This rejection is moot in view of the cancellation of claim 17.

Rejection under 35 U.S.C. § 101

Claim 17 is rejected “because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process.” This rejection is moot in view of the cancellation of claim 17.

Rejections under 35 U.S.C. 112, first paragraph

Claims 12 and 13 are rejected for failing to comply with the written description requirement. According to the action:

Applicants have disclosed one species of microorganism suitable for their process. Their claim potentially covers all microorganisms, which number in the millions. According to the MPEP § II A 2. (a) (ii) 'For each claim drawn to a genus: The written description requirement for a claimed genus may be satisfied through sufficient description of a representative number of species by actual reduction to practice (see I)(A), above), reduction to drawings (see I)(B), above), or by disclosure of relevant identifying characteristics, ... (Action, page 4, lines 5-12).

This rejection is rendered moot by the amendment to claim 12 and the cancellation of claim 13.

Claims 12 and 13 are rejected "because the specification, while being enabling for using strain CLOCK-002 to prepare their compounds, does not reasonably provide enablement for employing every unknown microorganism, capable of producing their compound" (Action, page 5, lines 3-6). This rejection is moot in view of the amendment to claim 12, and the cancellation of claim 13.

Claims 17 and 18 are rejected "because the specification, while being enabling for treating leukemia, lung carcinoma, colon carcinoma, and melanoma, does not reasonably provide enablement for treating all malignant tumors" (Action, page 6, lines 1-4). This rejection is moot in view of the amendment to claim 18 and the cancellation of claim 17.

Claims 17 and 18 are rejected "because the specification, while being enabling for treating leukemia, lung carcinoma, colon carcinoma, and melanoma, does not reasonably provide enablement for preventing any tumor" (Action, page 6, lines 1-4). This rejection is moot in view of the amendment to claim 18 and the cancellation of claim 17.

Applicant : Dolores Garcia Gravalos et al.
Serial No. : 10/019,388
Filed : April 23, 2002
Page : 8 of 8

Attorney's Docket No.: 14700-004US1 / USP80900

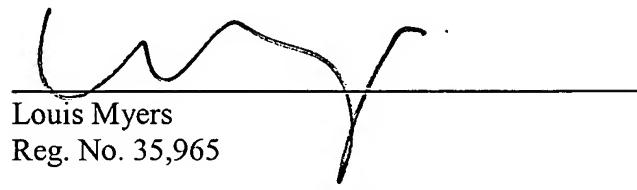
Applicants submit that all pending claims are in condition for allowance. No fee is believed due. Please apply any charges or credits to deposit account 06-1050, referencing Attorney Docket No.: 14700-004US1.

Date: 13/04/04

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

20896520.doc

Respectfully submitted,


Louis Myers
Reg. No. 35,965